

1 MICHAEL WALTON
2 P.O. Box 751
3 San Anselmo, CA 94979
4 (415) 456-7920
5 In Propria Persona

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
7 FOR THE COUNTY OF MARIN

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HUB LAW OFFICES

8 CHURCH OF SCIENTOLOGY)
9 INTERNATIONAL, a California)
10 not-for-profit religious)
11 corporation,)
12)
13 Plaintiff,)
14)
15 vs.)
16)
17 GERALD ARMSTRONG; MICHAEL)
18 WALTON; THE GERALD ARMSTRONG)
19 CORPORATION, a California for)
20 profit corporation; DOES 1)
21 through 100, inclusive,)
22)
23 Defendants.)
24 _____)
25

CASE NO. 157 680

OPPOSITION OF MICHAEL WALTON
TO PLAINTIFF'S MOTION FOR LEAVE
TO COMPLETE DISCOVERY; REQUEST
FOR SANCTIONS AGAINST MICHAEL
AND SOLINA WALTON
Date: December 16, 1994
Time: 9:00 A.M.
Location: Dept. 1
Judge Gary W. Thomas
Trial Date: May 18, 1995

26 Defendant Michael Walton objects to the bringing of this
27 motion before this Honorable Judge. On January 1, 1994, this court
28 appointed WILLIAM R. BENZ as special referee in this action for
29 the purpose of supervising, hearing, and determining any and all
30 motions and disputes relating to discovery. To date, Mr. Benz has
31 spent a substantial amount of time (48.4 hours) actively refereeing
32 the parties' discovery disputes and is in the best position to
33 assess the merits of plaintiff's motion in context with plaintiff's
34 prior use of discovery and the overall discovery history of this
35 litigation.

36 Without waiving said objection, Michael Walton submits the

COPY

1 following opposition to plaintiff, Church of Scientology
2 International's (hereinafter "CSI" or "SCIENTOLOGY") motion for
3 leave to complete discovery.

4 **I. INTRODUCTION**

5 CSI and its attorney, Ms. Laurie Bartilson have submitted a
6 motion and supporting declaration that is filled with erroneous
7 information by way of unsubstantiated conclusions of law, misstated
8 facts, misleading facts and outright fabrications. Many of these
9 will be well sorted out at time of trial and to attempt to address
10 them here does nothing but burden the court with having to read
11 irrelevant " lawyer parry-thrust-parry smoke" and dilute the issues
12 currently at hand.

13 The issues are:

- 14 1. Should CSI be allowed to reopen discovery
15 after the "30 day rule" has gone into effect?
- 16 2. Should CSI be allowed to take Ms. Solina
17 Walton's deposition?
- 18 3. Should CSI be allowed to inspect the
19 residence of Solina and Michael Walton?
- 20 4. What was the nature of the meet and confer
21 attempted by plaintiff prior to bringing this
22 motion?

23 These issues will be addressed in reverse order.

24 **II. MEET AND CONFER**

25 On November 21, 1994, Mr. Walton received via U.S. mail a
26 letter from attorney Bartilson dated November 17, 1994 regarding

1 the discovery being attempted by CSI. On that same day, November
2 21, 1994, Mr. Walton responded to that letter. See Exhibits A and
3 B to Declaration of Michael Walton in support of this opposition
4 (hereinafter "WALTON DECLARATION").

5 On Tuesday, November 22, 1994, Mr. Walton began a six day
6 Thanksgiving vacation (three of those days were either weekend days
7 or holidays). Upon Mr. Walton's return to his office on Monday,
8 November 28, 1994, he received a letter from attorney Bartilson
9 dated November 22, 1994 (Exhibit C to Walton Declaration). In
10 addition to the letter, there was service of the instant motion
11 under separate cover. And finally, there were two messages on the
12 office answering machine both time stamped November 22. There were
13 no other messages from Ms. Bartilson or anyone else representing
14 CSI regarding this attempted discovery either before or after the
15 ones received on November 22 and there were no telefaxes despite
16 the notation on Ms. Bartilson's letters that there had been telefax
17 transmission. This is not the first time Ms. Bartilson has
18 purported to transmit documents to Walton's office by telefax which
19 are never received.

20 The next day, November 29, Mr. Walton responded to Ms.
21 Bartilson's letter of November 22 . (Exhibit D to Walton
22 Declaration). An examination of the dates of these correspondences
23 readily show that there was no refusal to meet and confer. If
24 anything, such an examination shows that Ms. Bartilson has
25 misrepresented to the court the true and correct development of
26 events relating to the "meet and confer" requirement and if

1 sanctions are ordered, they should be against Ms. Bartilson and
2 Scientology for such misrepresentations and for a bad faith
3 "attempt" to meet and confer.

4 III. INSPECTION OF WALTONS' RESIDENCE

5 CSI noticed a demand for inspection of the Walton's residence
6 to take place on November 1, 1994. The Waltons timely objected by
7 way of separate documents. (Exhibits E and F to Walton
8 Declaration). The basis for these objections was not only that the
9 discovery was not permitted because of the 30 day rule but also
10 that the inspection was irrelevant, burdensome and oppressive,
11 violative of right to privacy, harassive and not calculated to lead
12 to the discovery of admissible evidence.

13 This lawsuit is about money damages. Plaintiff has not yet
14 proven that it is entitled to money damages from this defendant or
15 any other defendant associated with this litigation, yet it
16 attempts at every opportunity to conduct asset checks of the
17 defendants. To date, the referee, Mr. Benz, has disallowed CSI's
18 attempts to discover the value of the assets of this defendant. The
19 current value of the Walton residence has no relevance to this
20 lawsuit.

21 CSI has no judgment against Mr. or Ms. Walton nor any
22 legitimate claim to know the value of any of Waltons' assets. **Such**
23 **has been the consistent ruling from the discovery referee.** Even in
24 the unlikely event that CSI should obtain a money judgment against
25 the Waltons at some time in the future, the value of the family
26 home would only become relevant if the Waltons were unable to

1 satisfy such a judgment by other means.

2 The request by CSI to "inspect" the Walton residence is a
3 simple act of harassment and part of Scientology's vicious
4 litigation technique. In the language of the cult of Scientology it
5 is called "Fair Game". One of the directions of "Fair Game" is to
6 "sue". One of Scientology's litigation techniques it calls, "Dev-
7 T", short for "developed traffic" which means "unusual or
8 unnecessary traffic" or, as a verb, to generate such unusual and
9 unnecessary traffic; or to cause someone to do unnecessary work. A
10 complete description and authentication of this technique and
11 Scientology litigation policies are contained in a declaration
12 prepared and executed by Gerald Armstrong on November 16, 1994.
13 (Exhibit G to the Walton Declaration).

14 IV. DEPOSITION OF SOLINA WALTON

15 CSI noticed Solina Walton's deposition for November 15, 1994.
16 On October 17, 1994, Ms. Walton served objections to the taking of
17 her deposition along with the objections to the demand for
18 inspection of her residence. CSI claims it never received the
19 objections. See Exhibit F to Walton Declaration. Ms. Walton
20 objected to the taking of her deposition based upon the fact that
21 discovery had closed pursuant to the 30 day rule. Had plaintiff
22 timely noticed Ms. Walton's deposition, no objection would have
23 been made.

24 V. REOPENING DISCOVERY

25 The question of reopening discovery at this time is addressed
26 in Ms. Walton's Demurrer and Motion to Strike scheduled to be heard

1 on the same date as the instant motion. It is the Waltons' position
2 that CSI waited too long to name Ms. Walton as a Doe defendant. On
3 September 13, 1994, just 15 days before the date for trial of this
4 matter and two weeks after discovery cut off, plaintiff served
5 Solina Walton as DOE II to the instant action. **Significantly, it**
6 **was also one day after attorney Bartilson, in a hostile and**
7 **threatening manner, told defendant Michael Walton that CSI would**
8 **never allow this case to settle against Mr. Walton and would only**
9 **make things worse for him unless Mr. Walton would agree to "put**
10 **pressure on your friend" (defendant Armstrong) to capitulate in the**
11 **case that underlies the instant one; i.e. the Los Angeles breach of**
12 **contract case (now consolidated with this one). Mr. Walton declined**
13 **to interfere in the underlying case and the next day Ms. Walton was**
14 **named as a Doe defendant despite CSI's actual knowledge of her**
15 **interest in the Fawn Drive residence for since the outset of this**
16 **litigation. CSI waited until all discovery was completed and when**
17 **there was no more "pressure" that they could put on the parties,**
18 **they moved to continue the trial date (completely reversing their**
19 **original argument that the Marin Action should not be coordinated**
20 **with the Los Angeles Actions) and are attempting to use the Doe**
21 **statute simply as a way to further harass and "put pressure on" the**
22 **parties. If CSI had had a good faith belief that Ms. Walton should**
23 **have been a defendant in this action they had ample opportunity to**
24 **name her at a time when she could have participated in the**
25 **substantial and hotly litigated discovery which occurred over the**
26 **last year and one-half.**

1 CSI should not be allowed to reopen discovery after such an
2 unreasonable delay in the naming of a Doe defendant.

3 C.C.P. Section 2024(e)1-4 provides in relevant part:

4 "On motion of any party, the court may grant leave...to
5 reopen discovery after a new trial date has been set...In
6 exercising its discretion..., the court shall take into
7 consideration any matter relevant to the leave requested,
8 including, but not limited to, the following:

9 (1) The necessity and the reasons for the discovery.

10 (2) The diligence or lack of diligence of the party seeking
11 the discovery or the hearing of a discovery motion, and the
12 reasons that the discovery was not completed or that the
13 discovery motion was not heard earlier.

14 (3) Any likelihood that permitting discovery...will prevent
15 the case from going to trial on the date set, or otherwise
16 interfere with the court calendar, **or result in prejudice to**
17 **any other party.**

18 (4) The length of time that has elapsed between any date
19 previously set, and the date presently set, for the trial of
20 the action." (Emphasis added).

21 At all times since the filing of this lawsuit, Ms. Walton has
22 resided with her husband, defendant Michael Walton. Plaintiff can
23 offer no legitimate reason for delaying the naming of Ms. Walton to
24 the lawsuit until two weeks before the trial was scheduled to
25 begin.

26 Allowing Scientology to file a Doe amendment at this juncture

1 puts all parties back to "square one" with respect to the discovery
2 process. Ms. Walton's interests and position are different from
3 each of the other parties. The discovery aspect of this matter has
4 required an enormous expenditure of attorney time and money. As the
5 court is well aware, these considerations become extremely
6 important in the litigation arena. Allowing the naming of a DOE
7 defendant at this juncture would put an enormous strain on the
8 resources of the other defendants and it is a tactic the plaintiff
9 should be prohibited from employing. That the discovery period has
10 been a particularly intense and highly contested one is exemplified
11 by the large number of hours the court appointed Special Referee
12 has spent in connection with this matter. It is unfair and against
13 court policy to allow plaintiff to benefit from its lack of
14 diligence to the prejudice of **all the other parties.**

15 It is also unlikely, given the history of this litigation,
16 that Ms. Walton would be able to properly and thoroughly prepare
17 her defense in time for the May 18, 1995 trial date. In the event
18 that Ms. Walton should file a cross-complaint it is almost certain
19 that the trial date would have to be continued.

20 **VI. THE INEQUITY OF ALLOWING LITIGATION TO BE USED TO "BULLY"**

21 It was no coincidence that Ms. Walton was served the day after
22 Mr. Walton was threatened by Ms. Bartilson. Scientology has a long
23 established history and reputation for abusive litigation tactics.
24 (See, e.g. Exhibit H of Walton Declaration, "Litigation Noir,
25 California Lawyer, December 1994). Page 41, column 1, full
26 paragraph 3 of Exhibit H contains a reference to claims made by the

1 Honorable James M. Ideman regarding Scientology's litigation
2 tactics. Judge Ideman's declaration is an exhibit to the Armstrong
3 declaration (Ex. G) at Bates-stamped pages 700791 to 700794. It is
4 no secret that litigation is an enormously costly affair and that
5 the price of justice can economically devastate a citizen even
6 under the best of circumstances. Scientology has \$400,000,000.00 at
7 its disposal (See Exhibit I to Declaration of Walton Declaration)
8 and the mindset that any kind of destruction of its enemy,
9 including economic, by any means possible, including the use of the
10 legal system, (See Exhibit G & H to Walton Declaration) is a
11 victory. Such a combination creates an extremely dangerous
12 situation. It is a situation in which the judicial system is
13 manipulated into being a Scientology tool for the destruction of
14 Scientology's perceived enemies.

15 A brief review (if such a task is possible) of this Court's
16 file in this matter will reveal that the parties had ample
17 opportunity to complete (and did complete) discovery before the
18 cut-off date. Because of Scientology's history of abusing the court
19 system, it should be held to the strictest and highest standards.
20 Discovery should not be reopened and Scientology should be urged to
21 "put on its case" as soon as possible. To do otherwise severely
22 prejudices all other parties.

23 Dated: December 8, 1994

24 Michael Walton

PROOF OF SERVICE BY PERSONAL DELIVERY
STATE OF CALIFORNIA, COUNTY OF MARIN

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is ~~715 Sir Francis Drake Boulevard, San Anselmo, CA 94960.~~ *BACKUS COURIER CO., 929 Sir Francis Drake, Kentfield, CA*

On December 9, 1994, I served the within DEFENDANT MICHAEL WALTON'S OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO COMPLETE DISCOVERY & REQUEST FOR SANCTIONS AGAINST MICHAEL AND SOLINA WALTON; EVIDENCE IN SUPPORT OF OPPOSITION on the interested parties by ~~placing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States mail at San Anselmo, California addressed as follows:~~ *HAND DELIVERY*

Laurie J. Bartilson
Andrew Wilson
Wilson, Ryan & Campilongo
115 Sansome, Suite 400
San Francisco, CA 94104

Ford Greene, Esq.
711 Sir Francis Drake
San Anselmo, CA 94960

Executed on December 9, 1994 at San Anselmo, California.

I declare under penalty of perjury that the foregoing is true and correct.
